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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,463	07/31/2003	Charles H. Hoff	7241-1	5445

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EXAMINER
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SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/633,463

**Applicant(s)**

HOFF ET AL.

**Examiner**

Tony G. Soohoo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-31 is/are pending in the application.  
4a) Of the above claim(s) 10-22 and 24-31 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6 and 23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Claims 1-9 in the reply filed on 10-13-2005 is acknowledged.
2. This application contains claims 10-22 drawn to an invention nonelected with traverse in Paper No. filed 10-13-2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
3. Newly submitted claims 24-31 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly presented claims 25-31 present a combination of elements which were not previously presented in combination and would have resulted in a requirement of an election of species. Additionally, it is evidenced that the newly presented sets of independent claims does not present any generic claim and present differing species of invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, newly presented claims 24-31 in addition to the previously withdrawn claims 10-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Specification***

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to adequately provide support and describe the inner tube and the body end which is "terminating substantially coterminous with one another".

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow 4395131 in view of Fassauer 3804303 and further in view of Winn, Jr. 3741533.

Barlow discloses a system having a weigh hopper 81, storage bin 21, a scale 82, an auger 45, a transport line 85, a means 84 between the with a hopper 81 and transport line 85.

Barlow discloses all of the recited subject matter as defined within the scope of the claims with the exception of 1) the manner in which the delivery line transports the material downstream being pressurized air and having an eductor arrangement, and 2) having a discharge section with a housing and inner tube.

With regards to the 1<sup>st</sup> issue of the system, the reference to Fassauer (cited on PTO 1449) teaches a bin 23, metering device there between to a intermediate line 91 which is fed into a transport line 100. The material is conveyed using a blower 98 and an eductor Venturi system 95, 94.

In view of the teaching of Fassauer that one may transport particulate material utilizing air blower and a eductor Venturi system, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the delivery line 85 with a blower at one end and an eductor Venturi system so that material may be effectively transported downstream along the line 85.

With regards to the 2<sup>nd</sup> issue of the system, Barlow 4395131 in view of Fassauer 3804303 discloses all of the recited subject matter as defined within the scope of the claims with the exception of a discharge device mixing having a housing body, an inner tube for moving particulate through the transport line whereby a gap is formed between the inner tube and the outer body housing which has an end which substantially co-

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terminates with one another and the flow of liquid is provide in the gap to surround the dry particulate.

The reference to Winn, Jr. 3741533 teaches a mixing device for dry particulate through a central transport 14 inner tube whereby fluid is provided through a gap inside 16 and is formed between the inner tube 14 to provide a curtain of fluid surrounding the central flow of the particulate at the outlet thereby mixing and wetting the material in which the ends of 14 and 16 co-terminate at the same point.

In view of the teaching of Winn, Jr. 3741533 that one may utilize a further device element to mix fluid with a gaseous particulate material by the device discussed above, it is deemed that it would have been obvious to one of ordinary skill in the art to further provide for the device of Barlow, as modified above, with such a mixing device for dry particulate and liquid so that the materials may be further processed into a wetted material or fluidized component slurry or liquid.

With regards to the claims 2-6, the combination of Barlow in view of Fassauer and Winn, Jr. discloses all of the recited subject matter as defined within the scope of the claims with the exception of having plural bins, respective plural weigh hoppers, respective introducing means to the transport line, respective scales, respective transport lines.

The Barlow as modified discloses all of the recited subject matter as defined within the scope of the claims with a single example of a bin, scale, hopper, transport lines as discussed above with the exception of the provision of plural provisions of the respective structure to provide a plural transport of plural materials.

Whereby it is a old and well known technique of material processing to utilize plural machine respective components to provide a duplication of operation so that plural components may be processed by a device, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8., it is deemed that it would have been obvious to one of ordinary skill in the art to duplicate the bins, weigh hopper, introducing means to the transport line, the scale, and transport lines of Barlow such that the device of Barlow, as modified, has plural bins, respective plural weigh hoppers, respective introducing means to the transport line, respective scales, and respective transport lines so that plural materials may be processed and delivered.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow 4395131 in view of Fassauer 3804303 and further in view of Winn, Jr. 3741533 as applied to claim 1 above, and further in view of Pomerleau 2746728.

Barlow 4395131 in view of Fassauer 3804303 and further in view of Winn, Jr. 3741533 discloses all of the recited subject matter as defined within the scope of the claims with the exception of the inner tube having a flange which acts as a nozzle to accelerate the liquid flow between the inner tube and the inner body.

The reference to Pomerleau teaches that an inner tube 2 and outer body 7, 10 may have a section flange 3,4 which provides an accelerated flow in the flared lower extension to provide a venturing effect, column 2, lines 45-49.

In view of the teaching of Pomerleau that one may flare the inner tube to produce a Venturi effect between the inner and outer pipe to enhance flow, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the Barlow reference as modified by Fassauer 3804303 and further in view of Winn, Jr. 3741533 such that the inner tube is flared so as to provide a better flow of liquid as it exits the tube.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.
5. It is noted that the invention is a system which requires feed subsystems, mixing subsystems, and transport subsystems. Accordingly a person having ordinary skill in the art in the invention of such a system would have knowledge in such subsystems, in order to perfect the more complex system. One must utilize and perfect the invention by the use of known subsystems in combination. Reasons and motivation to combine such subsystems of the recited references above has been provided and pointed out in the rejection made above. Arguments that there is no motivation or reason to combine is unpersuasive.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ricciardi 4643582 discloses inner tubes with co-terminate with the



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outer housing section to provide an annular surrounding sleeve of liquid about the dry material.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM, Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tony G Soohoo  
Primary Examiner  
Art Unit 1723